

LETTER

OF A

Page 23

Burgher of *Amsterdam:*

BEING AN

8229.2.35

1-4

ANSWER

TO THE

Arguments of Mr. *Nenny* NENNY, *K*

CONCERNING THE

TRADE to the INDIES.

LONDON:

Printed in the YEAR MDCCLXXIV.

LETTER

OF A

Burgnet of Amsterdam

BEING AN

ANSWER

TO THE



CONCERNING THE

TRAITÉ DE LA VIE

LONDON

Printed in the Year 1753



LETTER

OF A

Burgher of *Amsterdam*, &c.

S I R,



THE Piece mention'd in my last Letter which the Fiscal *Nenny* has published, by Order of the Government of the *Austrian Netherlands*, in Answer to the last Memorial, presented to the *States General*, by the Directors of the *East-India Company*, is entitled, *Refutation of the Arguments asserted by the Directors of the Dutch East and West-India Companies, against the Freedom of Commerce of the Emperor's Subjects, Inhabitants of the Low-Countries, to distant Climates, under Pretence of the Fifth and Sixth Articles of the Treaty of Munster.* The Author in his Letter to the Marquis de

Prie, endeavours to prepossess his Excellency by disparaging the Arguments of the Directors of the *Dutch East and West India Companies*, calling them *Reasonings at Random*; *Discourses, out of which one can draw no plausible Consequence*; and *false Suppositions, &c.* Adding, That their Opposition to the Settlement of the *Ostend Company* being only grounded on the Fifth and Sixth Articles of the Treaty of *Munster*, to which this Settlement would be repugnant; *their Demands in this Regard are destitute of Reason*, and by Consequence *Unwarrantable*. But doth an Author, who begins with such Expressions, and pretends to undermine the Foundation of so solemn a Treaty, as that of *Munster*, take a right Way to persuade his Arguments are good to maintain his Cause? You will judge of it, Sir, by the Exposition of those Arguments, which I shall faithfully lay before you, after having transcribed the Contents in the Chapters of this Answer.

In the First Chapter, he pretends to shew, *The Treaty of Munster obliges neither the Emperor, nor his Subjects, as far as it concerns distant Countries, in the present Circumstances of Affairs in Europe, and in the Indies: And that the Inequality, which the Directors of the foresaid East and West-India Companies exclaim against, is wholly without Ground on their Side.*

In the Second, *That it is a Mistake to maintain, the Subjects of the Catholick King stand excluded by the Treaty of Munster, from the Navigation and Trade to the East and West-Indies, within the whole Extent of the Limits specified in the Charters of the said East and West-India Companies, on Account of the confirming Clause inserted in the Beginning of the Fifth Article of that Treaty.*

In the Third, the Author thinks to demonstrate, *That the other Clauses of the Fifth and Sixth Articles of the Treaty of Munster, which the Directors call Regulation of Limits, contain nothing against the Freedom of Commerce, with Respect to the Inhabitants of the Austrian Netherlands, in distant Regions, and those Places where they have exercised it* hither-

hitherto, and which they are authorized for, by the Emperor's Charter and Letter-Patents.

In the Fourth Chapter it is maintained, That the Argument which the Directors draw from the last Clause of the Fifth Article of the Treaty of Munster, decideth nothing in their Favour.

The Fifth is a Recapitulation of the Remarks made in the former Chapters, by which he pretended to shew, That the Treaty of Munster gives no manner of Authority to the Dutch Companies for their Undertakings.

In the Sixth Chapter he pretends to demonstrate, That the Twenty-sixth Article of the Barrier-Treaty doth no ways concern the Trade to the Indies.

In the Seventh, That the Directors make a wrong Interpretation of the Laws of Spain, and the EXCLUSIVE Clause INSERTED in the Cession or giving up of the LOW COUNTRIES AND OF BUDGUNDY, by King Philip the Second, in Behalf of the Infanta his Daughter, on May the 5th, 1598.

In the Eighth Chapter, That the Laws of Nations are so far from countenancing the Claim of the said Dutch Companies, that on the contrary they disapprove and condemn the same. These are the Reasons upon which the Author builds his Opinion.

To shew the Emperor is not bound to the Conditions of the Treaty of Munster, with respect to the States, though his Imperial Majesty was Guaranty for it, by the Treaty of the Grand Alliance, concluded Anno 1700, and by the Barrier-Treaty in 1715, and ratified it as King of Spain and the Indies, as Duke of Burgundy and Brabant, and Earl of Flanders, &c. which Titles his Imperial and Catholick Majesty keeps still in the said Treaty, and in the very Letters Patent of the Charter, which he granted to the Ostend Company: In order to wrest the Sense of those Treaties, the Fiscal Nenny, I say, has Recourse to what
passed

passed an Hundred Years before; or rather expressly denies the Fact, by separating, in the Emperor's Person, the Title of Sovereign of the *Low Countries*, from that of King of *Spain*. He says then, *Page 5*. " That the *Low Countries* never belonged " to the Princes of the most August House of *Austria*, as an " Appendix of the Kingdoms of *Spain*, but as Successors to the " House of *Burgundy*. That it is manifest, that as the Empe- " ror never enjoyed in the Whole, nor in Part, the Dominions " which King *Charles* the Second was possess'd of, as King of " *Spain* and the *Indies*; it would be unreasonable and unjust " to oblige him to execute and perform the Treaties, which " that Prince, or *Philip* the Fourth, made exclusively, as Kings " of *Spain*, such as certainly is (says he) the Treaty of " *Munster*, &c.

He maintains, *Page 3*. " That *Philip* the Fourth had stipu- " lated the Articles thereof, as King of *Spain*, and the *Indies*, " and by no Means as Duke of *Brabant*, Earl of *Flanders*, or " Sovereign of the other Provinces of the *Netherlands*, and " that his Engagement doth not extend beyond the Quality of " King of *Spain*; from whence he concludes, the Emperor is " not obliged to fulfil those Conventions, nor to cause them to " be observed by the Inhabitants of the *Netherlands*, his Sub- " jects; because the Emperor not only doth not possess the " *Low Countries*, as King of *Spain*, but, which is to be re- " mark'd, doth hold neither Lands nor Forts in the *Indies*, and " that the States have concurr'd to maintain another Prince in " the Possession of *Spain* and the *Indies*; so that, says the Au- " thor, it becomes the Directors very ill, to pretend the Em- " peror should be bound to observe, and to cause his Subjects " to execute a Treaty, which concerneth and binds the *Spani-* " *ards* only." This Argument is repeated in several other Pages.

" The Fiscal *Nenny* says further, *Page 6*. that the Emperor is " not obliged to perform the Engagements which *Philip* the " Fourth enter'd into, as King of *Spain* and the *Indies*, since " it is most certain he doth not represent him in this Case; " so that it is only He that is now Master of *Spain* and the " *Indies*,

“ *Indies*, even by the Concurrence of the *States-General*, who
 “ is obliged to fulfil those Engagements, &c. *England*, and
 “ the Republick of *Holland*, have deliver’d up the *Netherlands*
 “ to the Emperor, only as Head of the House of *Austria* in
 “ *Germany*, and no ways as King of *Spain*.” But Fiscal Nenny
 contradicts himself, when he presumes to give it as a Fact
 (Page 11.) That the final Clause of the Fifth Article of the
 Treaty of *Munster*, is not binding, not even with respect to
Spain. And after having said (Page 12.) that by the Fifth
 Article of the Treaty of *Munster*, *Philip* the Fourth had con-
 firm’d the Charters of the *India* Companies, because they were
 to be confirmed by him, having been granted during the War,
 and at a Time when the King of *Spain* did not own the
States-General as Free and Sovereigns, but look’d upon them as
 his Subjects, &c. he adds this, Page 22. “ The Directors say,
 “ the Emperor has confirm’d the Treaty of *Munster* in its whole
 “ Extent, by the Twenty-sixth Article of the *Barrier-Treaty*,
 “ &c. but they wrongfully take Advantage of what is settled
 “ by the said Twenty-sixth Article.” Let us hear this Pas-
 sage.

“ The Directors alledge, (says Mr. Nenny, Page 31.) that
 “ *Philip* the Fourth has bound himself, by the Ratification of
 “ the Treaty of *Munster*, to cause this Treaty to be observed in
 “ all his Kingdoms and Dominions, as well within as without
 “ *Europe*; and infer from thence, that the Fifth and Sixth Ar-
 “ ticles of the same Treaty are binding to the *Brabanders* and
 “ *Flemings*: The Terms of the Ratification we own, says he,
 “ but the Consequence which the Directors draw from them, is
 “ wrong. *Philip* the Fourth has treated with the *States-*
 “ *General*, in his respective Qualities of King of *Spain* and the
 “ *Indies*, as Duke of *Brabant*, and Count of *Flanders*, &c.
 “ ratified the Treaty in the same Extent; but it’s certain, that
 “ neither the Engagements he enter’d into, as King of *Spain*,
 “ and Sovereign of the *Indies*, nor his Ratification ever were
 “ binding, with regard to the *Brabanders* and *Flemings*,
 “ since he treated not for them as *Catholick King*, but as Sove-
 “ reign of the *Netherlands*, which never were an Appendix of
 “ the Crown of *Spain*.

These

These Passages, Sir, are sufficient to shew you Mr. Nenny's Character. If their Explanation be receiv'd in the Fiscal's Sense, what Consequences must one draw from them, for the Republick and its Trade, the Settlement whereof is grounded on the Treaty of *Munster*, which is so openly eluded, as well as the Ratifications, and other Treaties made since, to this Day? And how may any one depend on the most solemn Treaties, when made with Monarchs who bear more than one Title? For, in short, to say the Emperor is not bound to execute a Treaty, which he made as King of *Spain* and the *Indies*; because he doth not fully and actually possess the said Dominions, is as much as to say, That he shall be bound to no Treaty at all, till he be possess'd of the Kingdom of *Jerusalem*, and of divers others more difficult to conquer, of which he bears the Title also. For though it be true, that the Emperor could not maintain himself in the Possession of the whole Monarchy of *Spain*, where the Powers of *Great Britain* and *Holland* had install'd him; however, it is manifest, that his Imperial Majesty, by Virtue of his Alliance with the Commonwealth, being confederated with *Great Britain*, is in Possession of several Kingdoms, and very considerable Dominions, which were Part of the said Monarchy, and which, in all likelihood, the Emperor would never have obtained, without this generous Assistance. Should then *Naples*, *Sicily*, *Milan*, and the *Spanish Netherlands*, be reckon'd for nothing?

To answer now what Mr. Nenny sets forth, That the Emperor is Heir of the House of *Burgundy*, which knows no Treaty of *Munster*; and that this Right is come to him by his Birth and *German* Blood: One needs but remember, that *Charles* the Fifth divided the House of *Austria*, and his Dominions, into Two Branches: That he yielded the Hereditary Dominions of that August House in *Germany* to his Brother *Ferdinand*; and he kept for himself, and for his *Spanish* House, the Dominions of *Italy* and the *Indies*, with those of *Flanders*, which he annexed to the Monarchy of *Castile*.

These

These Two Branches so divided; made Two Families; whereby it happen'd, that the Eldest by Want of Male-Issue transferred by the Females into the House of *France*, the Succession it had acquired by Females, without any Portion for the Branch of *Germany*, nor even for that of *Burgundy*. But though it does not belong to us to decide about the Rights and Claims of both August Houses of *Austria* and *Bourbon*, we may be allowed to observe, that the *Low-Countries* have been deliver'd up by *England* and *Holland* to the Emperor, in order to enjoy them in the same Manner, as *Charles* the Second and his Predecessors had done pursuant to the Treaty of *Munster*: That the Emperor has accepted and receiv'd the Possession of them, on the same Conditions, which he sign'd in the *Barrier-Treaty*, not only as Emperor, but also expressly as King of *Spain*, and Duke of *Burgundy*, of which he took and still keeps the Title.

Thus, whatever By-Ways the Fiscal *Nenny* taketh the Fact in Question, cometh to this undoubted Truth; That the Emperor has promised to the *States General* to maintain and fully execute the Treaty of *Munster*; and that *which has been once, according to the old Axiom, must certainly be true in Fact.*

Since then there is but one Truth in the *Fact* of Treaties, there is also but one Truth in the *Sense*, which can be given to the Articles they are composed of. Mr. *Nenny* may wrest and tear to pieces, as much as he pleases, the Fifth and Sixth Articles of the Treaty of *Munster*, to have the Pleasure to explain them in his own Way; it always will be true and evident, that the Observation of those Articles, for the Space of Eighty Years, without Interruption, shews, and will always shew, the true Meaning of them. *Brabant* was all that while, whatever Attempts were made to the contrary, without Navigation to the *Indies*: *Charles* the Second, and his Predecessors, held the *Low-Countries*, without being allowed this Navigation: The Emperor has obliged himself to hold them on the same Conditions, under the Guaranty of his *Britannick* Majesty. This is the Sense of the Treaties, the Execution of which is desired.

The Fiscal *Nenny* was sensible of the Impossibility of explaining the same, in his Favour, by solid Arguments; and to elude them by false Interpretations; he has recourse to Evasions, Investives, and makes use of Expressions not only unnecessary, but striking both at the Power and Respect due to Persons mention'd in his Writing. It's but little, as I observed in the Beginning, to have called the Reasonings of the Directors of our *East-India* Companies, *Reasonings at Random, false Suppositions, Sophistry, Illusions*; their Proceedings, *unjust and unwarrantable*; their Quotations, *unfaithful*: He presumed besides to use the Words, *ridiculous* and *impertinent*; which is breaking through all the Rules of common Decency. Mr. *Nenny* ought to know, that the Body of the Directors of our *East-India* Companies, is generally made up of the most Eminent of the Governors of this Commonwealth, who fill all the Colleges of the Sovereignty. Thus, as the word *impertinent*, and other equivalent Expressions, are of such a Nature, as not to lose their Signification, they must necessarily fall back on him that employed them, since they most certainly can never be fit Epithets for those Honourable Directors, who represented their Grievances with all Respect and Discretion.

Another Thing, that seems unpardonable in Fiscal *Nenny*, is the scandalous upbraiding *Great Britain* and *Holland* with having abandoned the Emperor in the Pursuit of the Monarchy of *Spain*, and being the Occasion that the said Monarchy is transferred to another House: If one was allowed to say upon this Matter all that would be to the Purpose, one might remind the Author of certain Truths, which he ought not to have forgotten, and would sufficiently stop his Mouth.

Finally, Sir, that which passes all Belief, is the Boldness wherewith Fiscal *Nenny* dares revive by his Arguments and Consequences, which may more justly be called *Consequences at Random*, the Proposition already published at *Ratisbon*, by Mr.

Mr. *Begers*: Viz. That the Emperor, as German Heir, independently of the Kings of Spain, who made the Treaty of Munster, and Head of the House of Burgundy, which had no Part in that Treaty might call in Question the Sovereignty of the States General of the United Provinces, as well as their Trade. To speak after this Rate, is so great a Confidence, that I very much question the Fiscal Nenny's being owned in it by his Masters. They know too well the Consequences of such a Proposition, not to leave the Author of it to his own Rashness; and it would be no Surprise to me, if a Writer who has so little Regard, was made to repent it.

It's true, the Seventeen Provinces formerly made Part of the Empire. But is Fiscal Nenny ignorant, that after they had been possessed by the House of *Burgundy*, the Emperor *Charles* the Fifth made a Transaction with the States of the Empire at *Augsburg*, the 26th of *June*, 1548, wherein he inserted, that he was Sovereign of the *Low Countries*, except only the Dutchy of *Guelderland*, and the Lordship of *Utrecht*, and that the said Low Countries were not under the Jurisdiction of the Empire, nor bound to pay the Contributions, or to obey the Orders and Mandates of the Emperor?

The same Thing was likewise maintained by King *Philip* the Second, his Son, who went still further; for by his Will, made at *Madrid*, in the Year 1594, and by his Codicil made at *St. Laurence*, in 1597, He settled, that the said Countries should for ever remain united to the Crown of *Spain*, without dismembring or dividing the same, either for the Whole, or in Part, on any Title, or for any Cause soever. The same King had also order'd by his Will, that the Dutchy of *Milan*, as well as his other Dominions, Lands and Lordships, should be annexed for ever to the Kingdoms of *Castile* and *Arragon*, and never be separated from them. Thus were all those Estates lost to the German Branch of the August House of *Austria*, which ought to be obliged to *Great Britain* and *Holland*, for having got the same again. And this ought to teach Fiscal Nenny not to be

so lavish for the future, of the scandalous Reproaches he hath so daringly and plentifully bestowed upon the *Maritime Powers*, in several Places of his Writings.

You may judge, Sir, by these few Remarks on a Subject which I only glanced upon, of the Solidity of the Reply which is actually making by order of the Directors of our *East-India Company*, as I acquainted you before.

F I N I S.

